REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Revenue Regulations (RR) No. 2-98, as amended.
BIR Ruling No. 019-2005
CT-099-2021
APR 12 2021

INSIGHTS PHILIPPINES LEGAL ADVISORS
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Attention: **ATTY. FELIX T. SY, JR.**
Managing Partner

ATTY. LORYBETH R. BALDRIAS-SERRANO
Partner

ATTY. DONALD JEFFERSON S. ONGHANSENG
Associate

Gentlemen:

This refers to your request on behalf of your client, PETNET, Inc., for confirmation of your opinion that the service fees payable by PETNET, Inc. to LBC are subject to two percent (2%) expanded withholding tax (EWT).

It is represented that PETNET, Inc., with Taxpayer Identification Number (TIN) ., is a corporation organized under Philippine laws, with office address at East Offices Bldg., 114 Aguirre Street Legaspi Village, Makati City, Philippines, and has been classified and notified by the Commissioner of Internal Revenue on December 15, 2008 as one of the top twenty thousand (20,000) private corporations. It is engaged in the business of remittance, transferring or transmitting money on behalf of any person to another person and/or entity, otherwise referred to as Money Transfer Service transaction. To offer and facilitate a Money Transfer Services transaction to its clients, PETNET, Inc. accesses Western Union's global IT platform where it can connect with its global network of agents to facilitate the various phases of a Money Transfer Service transaction.

To broaden the reach of its pay-out transactions with the use of the Western Union's global IT platform, PETNET, Inc. entered into agreements with several other entities such as LBC. Pursuant to the arrangement between PETNET, Inc. and LBC, the latter's branches act as a physical service station for Money Transfer Service transactions, specifically as regards the pay-out of funds. To enable LBC to perform such services, both parties ensure Application Programming Interface integration through the PETNET server.

Through the Application Programming Interface, PETNET, Inc. provides each LBC branch access to the Western Union's global IT platform through PETNET, Inc.'s virtual private network (VPN) connection. The VPN connection acts as a gateway, through which the LBC server request details of the transaction from the server of PETNET, Inc. The server of PETNET, Inc., in turn, request transaction details from the Western Union's global IT platform. Upon receipt of transaction details, server of PETNET, Inc. communicates the information to the LBC server. With the transaction details, LBC renders services as payout/sending/servicing stations to PETNET, Inc., and thus acts as a front-liner to customers of the Money Transfer Service transactions.

In exchange for LBC's service consisting of request of transaction details and acting as physical service stations, PETNET, Inc. pays fees to LBC. LBC, meanwhile, issues official receipts under its own name to customers of the Money Transfer Service transactions.

In view of the foregoing, you now request for confirmation that the service fees payable by PETNET, Inc. to LBC are subject to two percent (2%) EWT.

In reply thereto, please be informed that Section 2.57.2 (I) of Revenue Regulations (RR) No. 2-98, as amended, provides that:

> *"SECTION 2.57.2. Income Payments Subject to Creditable Withholding Tax and Rates Prescribed Thereon. – Except as herein otherwise provided, there shall be withheld a creditable income tax at the rates herein specified for each class of payee from the following items of income payments to persons residing in the Philippines:*
>
> *xxx xxx xxx*
>
> *(I) Income payment made by top withholding agents, either private corporations or individuals, to their local/resident supplier of goods and local/resident supplier of services other than those covered by other rates of withholding tax. [formerly under letters (M) and (W)] – Income payments made by any of the top withholding agents, as determined by the Commissioner, to their local/resident supplier of goods/services, including non-resident aliens engaged in trade or business in the Philippines, shall be subjected to the following withholding tax rates:*
>
> *Supplier of goods – One percent (1%)*
> *Supplier of services – Two percent (2%)*
>
> *Top withholding agents shall include the following:*
>
> *a. Classified and duly notified by the Commissioner as either any of the following unless previously de-classified as such or had already ceased business operations:*
>
> *(1) A large taxpayer under Revenue Regulations No. 1-98, as amended;*
> *(2) Top twenty thousand (20,000) private corporations under RR No. 6- 2009; or*
> *(3) Top five thousand (5,000) individuals under RR No. 6-2009;*
>
> *b. Taxpayers identified and included as Medium Taxpayers, and those under the Taxpayer Account Management Program (TAMP).*
>
> *The top withholding agents by concerned LTS/RRs/RDOs shall be published in a newspaper of general circulation. It may also be posted in the BIR website. These shall serve as the "notice" to the top withholding agents. The obligation to withhold under this sub-section shall commence on the first (1st) day of the month following the month of publication. Existing withholding agents classified as large taxpayers, top 20,000 private corporations or top 5,000 individuals which have not been delisted prior to these regulations shall remain as top withholding agents. The initial and succeeding publications shall include the additional top withholding agents and those that are delisted.*
>
> *The term "goods" pertains to tangible personal property. It does not include intangible personal property, as well as agricultural products which are defined under item (N) of this Section.*

> *The term "local resident suppliers of goods/suppliers of services" pertains to a supplier from whom any of the top withholding agents, regularly makes its purchases of goods/services. As a general rule, this term does not include a casual purchase of goods/services that is purchase made from a non-regular supplier and oftentimes involving a single purchase. However, a single purchase which involves Ten thousand pesos (₱10,000) or more shall be subject to withholding tax under this subsection. The term "regular suppliers", for purposes of these regulations, refer to suppliers who are engaged in business or exercise of profession/calling with whom the taxpayer-buyer has transacted at least six (6) transactions, regardless or amount per transaction, either in the previous year or current year."*

Prescinding from the above-cited provisions of RR No. 2-98, as amended, it is undisputed that income payments made by any of the top withholding agents, as determined by the Commissioner, to their local/resident supplier of goods/services, including non-resident aliens engaged in trade or business in the Philippines, shall be subject to one percent (1%) EWT for sale of goods and/or two percent (2%) EWT for sale of services.

In stressing the rationale of the above-cited principles, this Office had elucidated the matter in BIR Ruling No. 019-2005 dated September 21, 2005 as follows:

> *". . . in order that income payments to the SME/Supplier will be subject to the 1% or 2% creditable withholding tax (CWT), as the case may be, Big Brother must be among the top ten thousand (10,000) private corporations, as determined by the Commissioner, and has transacted at least six (6) transactions with the SME/Supplier, regardless of the amount per transaction, either in the previous year or current year (BIR Ruling No. 141-94 dated September 20, 1994). Thus, under Revenue Memorandum Circular No. 28-94, a taxpayer will be subject to the withholding provisions when he receives a notice that he is included in the list of the top 10,000 corporations (BIR Ruling No. 166-94 dated December 5, 1994). Accordingly, Big Brother shall be constituted as withholding agent of its suppliers, the SME/Suppliers."*

Accordingly, since PETNET, Inc. has been classified and notified by the Commissioner of Internal Revenue on December 15, 2008 as one of the top twenty thousand (20,000) private corporations, service fees payable by PETNET, Inc. to LBC are subject to two percent (2%) EWT pursuant to Section 2.57.2 (I) of RR No. 2-98, as amended.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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